IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 108 of 2005

Between:

Mattey Adinarayana, S/o. Sri Namassivaya,
R/o. Kattamuru (V), Peddapuram (M), E.G.District.

..... PETITIONER

AND

1 The A.P. Eastern Power Distribution Co. Ltd., Visakhapatnam, rep. by its Asst. Divisional Engineer,
Lines, Sub Division, Samalkota(P), E.G.District.
2 The Supdt. Engineer, Operation, APEPDCl, Vidyut Sekha Bhavan, Godavari Bund, Rajahmundry (P), E.G.District.
3 The Chairman cum Managing Director, APEPDCL, Corporate Office, Daba Gardens, Visakhapatnam (P), District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an appropriate writ, order direction more particularly one in the nature of Writ of Mandamus by declaring that the impugned notice dt. 27.11.2004, issued by the 1st respondent for assessment of one year, period at three times the rate of tariff for category II for Rs. 77.836/- demanding payment of Rs. 50% of the Assessment at the prehearing stage, disconnecting power supply on 29.11.2004, as illegal void, ultra vires the powers of the 1st respondent powers in violation of principles of natural justice, in breach of the amended electricity act, 2003 of the Parliament thus in operative against the petitioner to set aside the same in the interest of justice.

Counsel for the Petitioner:MR.P.NARASIMHA RAO

Counsel for the Respondents: SMT.M.VINOBHA DEVI

The Court, at the stage of admission, made the following :

ORDER:

Petitioner is running a flour mill and is extended power supply under Category-II. The premises were inspected on 08.11.2004, and it was noticed that the petitioner has resorted to acts of pilferage. An order of provisional assessment, dated 27.11.2004, is issued to the effect that the value of the power pilfered by the petitioner is Rs.77,836/-. It was also indicated that in case the petitioner wants continuance of power supply, he shall deposit half of the same. Petitioner states that the power supply was disconnected for non-payment of the amount. He challenges the action of the respondents.

Heard the learned counsel for the petitioner and the learned standing counsel for the respondents.

As on today, petitioner is served with only an order of provisional assessment. Section 126 of the Indian Electricity Act, 2003, (for short 'the act') prescribes the detailed procedure for determining the liability of a consumer wherever any acts of pilferage are noticed. Prima facie, a perusal of the details of assessment through the impugned order discloses that the pilferage was assessed for a period of one year and the tariff was charged at three times the usual charges. Under Section 126 of the Act the period cannot exceed six months and the tariff, not more than one and half times.

Taking the totality of the circumstances into account, the writ petition is disposed of directing that the power supply to the petitioner shall be restored on his payment of a sum of Rs.10,000/-. The same shall be subject to the outcome of the order of final assessment. There shall be no order as to costs.

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(L.NARASIMHA REDDY,J)

Date: 19-01-2005

Note: Furnish a copy

by 24.01.2005

(B/o.)

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To

1 The Asst. Divisional Engineer, A.P. Eastern Power Distribution Co. Ltd., Visakhapatnam, Lines, Sub Division, Samalkota(P), E.G.District.
2 The Superintendent Engineer, Operation, APEPDCl, Vidyut Sekha Bhavan, Godavari Bund, Rajahmundry (P), E.G.District.
3 The Chairman cum Managing Director, APEPDCL, Corporate Office, Daba Gardens, Visakhapatnam (P), District.

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